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**From:** Brendan Mullen [bmullen@racertrust.org]  
**Sent:** 9/24/2021 9:59:29 PM  
**To:** Carl Garvey [cgarvey@racertrust.org]; Doyle, James [Doyle.James@epa.gov]  
**CC:** Sacks, Victoria [Sacks.Victoria@epa.gov]; Ludmer, Margo [ludmer.margo@epa.gov]  
**Subject:** RE: Further revised Ley Creek OU-2/Expanded Territory RD Administrative Order on Consent

To echo Carl's sentiments, thank you all for your efforts in reaching this milestone (and without any name-calling or disparaging comments). Especially glad that Mrs. Doyle mellifluously intervened towards the end to assist with the grammar...

Brendan Mullen  
Cleanup Manager (NY)



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**From:** Carl Garvey <cgarvey@racertrust.org>  
**Sent:** Friday, September 24, 2021 5:28 PM  
**To:** Doyle, James <Doyle.James@epa.gov>  
**Cc:** Brendan Mullen <bmullen@racertrust.org>; Sacks, Victoria <Sacks.Victoria@epa.gov>; Ludmer, Margo <ludmer.margo@epa.gov>  
**Subject:** RE: Further revised Ley Creek OU-2/Expanded Territory RD Administrative Order on Consent

Sounds good, thank you, Jim. We understand about the disclaimer. Talk w/ you at least by email on Monday. --Carl

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**From:** Doyle, James <Doyle.James@epa.gov>  
**Sent:** Friday, September 24, 2021 4:15 PM  
**To:** Carl Garvey <cgarvey@racertrust.org>  
**Cc:** Brendan Mullen <bmullen@racertrust.org>; Sacks, Victoria <Sacks.Victoria@epa.gov>; Ludmer, Margo <ludmer.margo@epa.gov>  
**Subject:** RE: Further revised Ley Creek OU-2/Expanded Territory RD Administrative Order on Consent

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Carl, my mother and I thank you and Brendan.

Seriously, we are grateful that we can move ahead with this matter and thank you for your tolerance and understanding. Margo is not available right now, but I see that the "clean" version she sent you earlier today still has a header stating that it is subject to further governmental review. So please use the version attached. Aside from removing the header on page one, there were a few page numbers in the table of contents that were off. We'll be getting our final signoffs on our end on Monday (no changes anticipated based on our current approvals, but we have to insert the disclaimer), so if RACER's administrative trustee approves, we should be all set on Monday or Tuesday.

Enjoy the weekend.

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**From:** Carl Garvey <[cgarvey@racertrust.org](mailto:cgarvey@racertrust.org)>

**Sent:** Friday, September 24, 2021 3:23 PM

**To:** Ludmer, Margo <[ludmer.margo@epa.gov](mailto:ludmer.margo@epa.gov)>; Doyle, James <[Doyle.James@epa.gov](mailto:Doyle.James@epa.gov)>

**Cc:** Brendan Mullen <[bmullen@racertrust.org](mailto:bmullen@racertrust.org)>; Sacks, Victoria <[Sacks.Victoria@epa.gov](mailto:Sacks.Victoria@epa.gov)>

**Subject:** RE: Further revised Ley Creek OU-2/Expanded Territory RD Administrative Order on Consent

Hi Margo and Jim: Brendan and I, along with our outside legal counsel Matt Littleton and Alan Knauf, are all in agreement with the AOC and SOW language as presented in the attachments to Margo's message below.

Later today, Brendan and I will be recommending to RACER's Administrative Trustee that the AOC in the final form you've provided be executed by the Trustee. We hope to have RACER's executed signature page to you on Monday, Sept. 27th.

We thank you for your consideration of RACER's unique nature and concerns, as well as for your professionalism, during this lengthy negotiation. --Carl

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**From:** Ludmer, Margo <[ludmer.margo@epa.gov](mailto:ludmer.margo@epa.gov)>

**Sent:** Friday, September 24, 2021 12:17 PM

**To:** Carl Garvey <[cgarvey@racertrust.org](mailto:cgarvey@racertrust.org)>; Brendan Mullen <[bmullen@racertrust.org](mailto:bmullen@racertrust.org)>

**Cc:** Doyle, James <[Doyle.James@epa.gov](mailto:Doyle.James@epa.gov)>; Sacks, Victoria <[Sacks.Victoria@epa.gov](mailto:Sacks.Victoria@epa.gov)>

**Subject:** RE: Further revised Ley Creek OU-2/Expanded Territory RD Administrative Order on Consent

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Hi Carl and Brendan,

Please see the attached, updated drafts of the RD AOC and SOW (clean and redline). We made a few adjustments to the AOC Paragraph 2 language that you sent over yesterday, but the paragraph generally looked good to us. I am including a redline of your proposed language, below, so that you can see what we changed. Further internal review of the AOC/SOW led to a few additional, minor revisions (mostly grammatical), but otherwise the attached drafts reflect yesterday's discussion. Please let me know if there are any final tweaks to be made.

Thanks,  
Margo

This Settlement provides for the performance of RD activities and the agreement to pay certain response costs incurred by the United States at or in connection with what is described herein and defined as OU-2 as well as an area referred to and defined herein as the Expanded Territory, both located in the Town of Salina, Onondaga County, New York. It is RACER's position that OU-2 does not include the Expanded Territory as because it believes such area was not part of the remedy selected for OU-2 in the 2015 Record of Decision ("2015 ROD"). It is EPA's position that a post-ROD expansion of a Superfund site's geographic area is not uncommon, and that it is EPA, as the Lead Agency for OU-2, that determines the scope of operable units at such sites. EPA does not acknowledge the distinction between OU-2 and the Expanded Territory and maintains that the areas defined as part of the Expanded Territory comprise a portion of OU-2. For purposes of and in accordance with this Settlement only, RACER will conduct the RD activities that EPA desires to be performed, notwithstanding any disagreement among the Parties as to the extent of OU-2. The Parties further understand and agree that the use of the terms "OU-2", "LCDD", "Expanded Territory", or "Site" in this Settlement will have no precedential value in any requests that additional RACER funding (including requests for access to "Cushion Funding" as

defined by the Trust Consent Decree) be allocated toward RACER's performance of response activities at OU-2 or the Expanded Territory or the Site.

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**From:** Carl Garvey <[cgarvey@racertrust.org](mailto:cgarvey@racertrust.org)>

**Sent:** Thursday, September 23, 2021 9:33 AM

**To:** Ludmer, Margo <[ludmer.margo@epa.gov](mailto:ludmer.margo@epa.gov)>; Doyle, James <[Doyle.James@epa.gov](mailto:Doyle.James@epa.gov)>

**Cc:** Brendan Mullen <[bmullen@racertrust.org](mailto:bmullen@racertrust.org)>

**Subject:** RE: Further revised Ley Creek OU-2/Expanded Territory RD Administrative Order on Consent

And here's our markup of the SOW dft you sent us on Tuesday, Sept. 21<sup>st</sup>. Talk with you at 11am Eastern. Thanks. --Carl

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**From:** Carl Garvey

**Sent:** Thursday, September 23, 2021 9:10 AM

**To:** Ludmer, Margo <[ludmer.margo@epa.gov](mailto:ludmer.margo@epa.gov)>; 'doyle.james@epa.gov' <[doyle.james@epa.gov](mailto:doyle.james@epa.gov)>

**Cc:** Brendan Mullen <[bmullen@racertrust.org](mailto:bmullen@racertrust.org)>

**Subject:** Further revised Ley Creek OU-2/Expanded Territory RD Administrative Order on Consent

Hi Margo and Jim: Attached please find RACER's revisions to and several embedded comments in the version of the RD AOC you sent us on Tuesday, Sept. 21<sup>st</sup>. Can we please walk through these revisions and comments on this AOC during our call at 11am Eastern? I think we're close, but we not quite there yet.

We'll be following up with a similar markup of the SOW shortly. Thanks. --Carl